

1. I am the attorney representing the Applicants in this matter and offer this Declaration in support of Applicants' Motion requesting an evidentiary hearing.

2. On Tuesday, October 28, 2008, I spoke with Assistant Attorney General Emerald Gratz, who advised me that no discovery was conducted between Plaintiff State of Minnesota and Defendant CMI, Inc. prior to the proposed Consent Decree other than the preliminary Federal Rule of Civil Procedure initial disclosures required by Rule 26(A)(1).

3. A true and correct copy of e-mail correspondence between Patrick Pulju of the Minnesota Bureau of Criminal Apprehension and Glen Gilbreath of CMI, Inc., regarding “Instrument Software” (dated April 24, 2007) is marked as **Ex. 1**

4. A true and correct copy of the following eighteen (18) State court orders compelling disclosure of the source code to the Intoxilyzer 5000, as referenced in Applicant’s Memorandum of Law, are marked as **Ex. 2**

i. Order and Memorandum of Honorable Judge Robert F. Carolan in *Chapman v. Comm’r of Pub. Safety*, Dakota County District Court File No. C9-07-13737 (August 30, 2007)

ii. Order and Memorandum of Honorable Judge John R. McBride in *Weidner v. Comm’r of Pub. Safety*, Chisago County District Court File No. 13-CV-06-871 (October 11, 2007)

iii. Order and Memorandum of Honorable Judge David E. Doyscher in *Peterson v. Comm’r of Pub. Safety*, Washington County District Court File No. CX-07-5360 (October 10, 2007)

iv. Order and Memorandum of Honorable Judge Gary R. Schurrer in *Wahlstrom v. Comm’r of Pub. Safety*, Washington County District Court File No. CV-07-267 (December 21, 2007)

v. Order and Memorandum of Honorable Judge Cara Lee Neville in *Sher v. Comm’r of Pub. Safety*, Hennepin County District Court File No. 27-CV-07-20686 (April 18, 2008)

vi. Order and Memorandum of Honorable Judge Michael V. Sovis in *Dambrotan, et. al. v. Comm'r of Pub. Safety*, Dakota County District Court File Nos. C2-07-14423; CX-07-12435; C9-07-14158; and C3-07-14415 (October 23, 2007)

vii. Order and Memorandum of Honorable Judge Kevin S. Burke in *Diethart v. Comm'r of Pub. Safety*, Hennepin County District Court File No. 27-CV-07-20566 (January 3, 2008)

viii. Order and Memorandum of Honorable Judge Donald J. Venne in *Oslund v. Comm'r of Pub. Safety*, Anoka County District Court File No. 02-CV-07-4966 (February 12, 2008)

ix. Order and Memorandum of Honorable Judge Martha M. Simonett in *McNamara v. Comm'r of Pub. Safety*, Dakota County District Court File No. C5-07-3223 (October 23, 2007)

x. Order and Memorandum of Honorable Judge Kenneth L. Jorgensen in *McCullough v. Comm'r of Pub. Safety*, Washington County District Court File No. CV-07-282 (January 11, 2008)

xi. Order and Memorandum of Honorable Judge Cara Lee Neville in *Hald v. Comm'r of Pub. Safety*, Hennepin County District Court File No. 27-CV-07-15230 (April 3, 2008)

xii. Order and Memorandum of Honorable Judge Lloyd Zimmerman in *French v. Comm'r of Pub. Safety*, Hennepin County District Court File No. 27-CV-07-11312 (April 14, 2008)

xiii. Order and Memorandum of Honorable Judge Mary J. Theisen in *Reierson v. Comm'r of Pub. Safety*, Scott County District Court File No. 70-CV-07-21950 (November 15, 2007)

xiv. Order and Memorandum of Honorable Judge Nancy J. Logering in *Schwarz v. Comm'r of Pub. Safety*, Anoka County District Court File No. 02-CV-07-4736 (November 29, 2007)

xv. Order and Memorandum of Honorable Judge Timothy J. McManus in *Pedersen v. Comm'r of Pub. Safety*, Dakota County District Court File No. C8-07-12305 (February 5, 2008)

xvi. Order and Memorandum of Honorable Leslie M. Metzen in *Bettenberg v. Comm'r of Pub. Safety*, Dakota County District Court File No.: C7-07-015955 (April 29, 2008)

xvii. Order and Memorandum of Honorable Judge Diane M. Hanson in *Reierson v. Comm'r of Pub. Safety*, Scott County District Court File No.: 70-CV-07-21950 (March 8, 2008)

xviii. Order of the Honorable Judge Gabriel D. Giancola in *Mullen v. Comm'r of Pub. Safety*, Hennepin County District Court File No.: 27-CV-08-6609

5. A true and correct copy of the following sixteen (16) State court orders compelling disclosure of the source code to the Intoxilyzer 5000, as referenced in Applicant's Memorandum of Law, are marked as **Ex. 3**

I. Order and Memorandum of Honorable Judge Skipper J. Pearson in *State v. Rohde*, Stearns County District Court File No. T8-06-17005 (February 7, 2007)

II. Order and Memorandum of Honorable Judge Kenneth A. Sandvik in *State v. Pederson*, Cook County District Court File No. CR-05-25 (November 20, 2006)

III. Order and Memorandum of Honorable Judge Patrice K. Sutherland in *State v. Parten*, Scott County District Court File No. 70-CR-06-15448 (August 20, 2007)

IV. Order and Memorandum of Honorable Judge Patrice K. Sutherland in *State v. Nihart*, Dakota County District Court File No. K3-07-1986 (September 12, 2007)

V. Order and Memorandum of Honorable Judge Donald J. Venne in *State v. Sumstad*, Anoka County District Court File No. 02-K1-07-953 (January 25, 2008)

VI. Order and Memorandum of Honorable Judge Jack Nordby in *State v. Hagen*, Hennepin County District Court File No. 27-CR-07-105717 (December 10, 2008)

VII. Order and Memorandum of Honorable Judge Paul Widick in *State v. Keller*, Stearns County District Court File No. K1-06-2880 (January 25, 2008)

VIII. Order and Memorandum of Honorable Judge William F. Thuet in *State v. Rademacher*, Dakota County District Court File No. K4-07-2581 (November 19, 2007)

IX. Order and Memorandum of Honorable Judge Edward Lynch in *State v. Cramer*, Dakota County District Court File No. K1-07-1338 (December 11, 2007)

X. Order and Memorandum of Honorable Judge Robert F. Carolan in *State v. Harmon*, Dakota County District Court File No. T7-07-70356 (October 11, 2007)

XI. Order and Memorandum of Honorable Judge Philip T. Kanning in *State v. Adams*, Carver County District Court File No. 10-CR-05-314 (October 12, 2007)

XII. Order and Memorandum of Honorable Judge Robert A. Awsumb in *State v. Tagtmeir*, Ramsey County District Court File No. T7-07-12699 (January 2, 2008)

XIII. Order and Memorandum of Honorable Judge Kevin W. Eide in *State v. Zenobian*, Carver County District Court File No. 10-CR-07678 (November 14, 2007)

XIV. Order and Memorandum of Honorable Judge Stephen J. Askew in *State v. Reed*, Anoka County District Court File No. 02-CR-07-10323 (May 2, 2008)

XV. Order and Memorandum of Honorable Judge Jon A. Maturi in *State v. Halvorsen*, Itasca County District Court File No.: 31-CR-07-4271 (March 12, 2008)

XVI. Order and Memorandum of Honorable John R. McBride in *State v. Wiegele*, Chisago County District Court File No.: 13-CR-07-1780 (July 1, 2008)

RAMSAY & ASSOCIATES, P.L.L.C.

Dated: October 31, 2008

/s/ Charles A. Ramsay

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